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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/720,874

11/24/2003

Simon Brain

7114

5117

55740 7590 04/23/2007  
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EXAMINER

GARCIA, ERNESTO

ART UNIT

PAPER NUMBER

3679

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

04/23/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/720,874

Applicant(s)

BRAIN ET AL.

Examiner

Ernesto Garcia

Art Unit

3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3 and 5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3 and 5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

Applicants' response filed April 4, 2007 complying with all of the prior rejections and presenting the claims in the form previously indicated by the examiner to be allowable is acknowledged. Upon further review of claim 1, it has come to the examiner's attention that the claim does not define over other art references of record because the location of the tabs has not been set forth. Since applicants complied with all requirements of record, the finality is being withdrawn and prosecution reopened so that this issue can be addressed.

The indicated allowability of claims 1, 3, and 5 is withdrawn so that a rejection based on Herzog et al., 6,443,320, in view of King, 4,955,743, as follow, can be applied.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

#### ***Claim Rejections - 35 USC § 103***

Claims 1, 3, and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herzog et al., 6,443,320, in view of King, 4,955,743.

Regarding claim 1, Herzog et al. disclose, in Figures 4 and 5, a locking mechanism comprising resilient plate **100**, a connecting means **140** for securing the plate **100** to a back face of a flange, and a pin **120**. The connecting means comprises tabs **140** on the plate **100**. The pin **120** projects from a mid-portion **A1** (see marked-up attachment) of the plate **100**. The plate **100** is resiliently deflectable. However, Herzog et al. fail to disclose the plate **100** having at least one peripheral deformation configured to coact with the flange in defining a pocket. King teaches, in Figures 3 and 4, a peripheral deformation 49 configured to coact with a flange in defining a pocket to allow a human finger to grasp or which can receive a screwdriver or coin for bending the plate (col. 4, lines 59-62). Therefore, as taught by King, it would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the bent curved portion shown in Figure 1 of Herzog et al. with a peripheral deformation 49 configured to coact with the flange to facilitate bending of the plate of Herzog et al. Note that this is merely the substitution of one known deflection mechanism for another and it is within the level of skill in the art to utilize known features of the art for the purpose for which they are known.

Regarding claim 3, the tabs **140** are able to move.

Regarding claim 5, given the modification, the at least one peripheral deformation **49** will be aligned laterally with the pin **120**.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ernesto Garcia whose telephone number is 571-272-7083. The examiner can normally be reached from 9:30AM-6:00PM. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached at 571-272-7087.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*EL*

*Daniel P Stodola*

E.G.

April 20, 2007

Attachment: one marked-up page of Herzog et al., 6,443,320

DANIEL P. STODOLA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

